

# Portable Audio/Video Recorders

## 433.1 PURPOSE AND SCOPE

To provide requirements and guidelines for the use of personal recording devices such as audio recorders, handheld cameras, and Body Worn Cameras (BWC) used to document official police contacts.

The Piedmont Police Department equips officers with digital recording devices such as audio recorders, handheld cameras, and Body Worn Cameras. The use of these devices provides documentary evidence for criminal investigations, internal or administrative investigations, training, and civil litigation. The recordings are intended to provide an unbiased visual/audio record of an incident and to supplement an officer's report. Officers shall use these devices in accordance with the provisions of this policy in order to achieve operational objectives and ensure evidence integrity.

## 433.2 MEMBER RESPONSIBILITIES

All digital recording devices will be operated and maintained according to the manufacturer's instructions and recommendations.

Officers shall ensure that their recording equipment is fully charged and in working order at the beginning of their shift. Any malfunctions shall be documented and reported to their supervisor immediately, who will provide them with a temporary replacement device, if available.

### 433.2.1 ACTIVATION

During their tour of duty, department members will:

1. Ensure the personal recording device is properly worn and positioned to best record most potential events.
2. Make every effort to record all enforcement and investigative contacts including, but not limited to the following:
  - Any investigative encounter to confirm or dispel a suspicion that the person may be involved in criminal activity, including detentions, vehicle stops, pedestrian stops, and consensual encounters;
  - Probation, parole, or consent searches;
  - Service of any arrest or search warrant;
  - All suspect statements

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- Code 3 driving
- Calls for service

3. Make every effort to record non-enforcement contacts should they become confrontational, assaultive, or enforcement-oriented.

4. At no time is a department member expected to jeopardize his/her safety in order to activate a personal recording device. However, the personal recording device should be activated in required situations as soon as practicable.

It is recommended that department members make audio/video records of pedestrian contacts, interviews, and other events when an audio/video record could have value as evidence, to limit liability, to resolve citizen complaints, or as a training tool.

#### 433.2.2 DEACTIVATION

During required activation, the recording shall not be intentionally terminated until the conclusion of the encounter unless tactical, safety or practical reasons dictate otherwise.

Anytime a recording is terminated early, the reason shall be documented both in the notes field in Evidence.com and in the subsequent police report. If no police report is filed for the encounter, then the fact that the recording was terminated before the conclusion of the event and the reason shall be documented in an email to the on duty supervisor.

Officers must use reasonable judgment in determining when to deactivate the recording device, such as when the purpose for activation is no longer present. Keeping in mind that static situations may change rapidly, officers need to recognize it may be necessary to re-activate their recording device unexpectedly.

#### 433.2.3 DOCUMENTATION OF USE

All recordings made under this policy will be properly labeled and categorized and will normally be downloaded into the Evidence.com system prior to the end of shift. The minimum requirements for labeling in Evidence.com are ID (incident or case number), Category (which is selected from the provided list), Title (a brief description of the event), and location (if not included automatically it must be added manually by the officer).

Officers shall note in arrest and other associated reports/cites when video/audio records were made during the event in question.

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Any incident where a report is taken and a recording device activated, the recording device serial number shall be noted in the report.

Department members shall not tamper with, or in any manner, alter the data stored on the recording device.

### **433.2.4 RESTRICTED USE**

All recorded media, images, and audio files are the property of the Piedmont Police Department and shall not be copied, released or disseminated in any form or manner without the expressed consent of the Chief or Police or their designee.

Unauthorized use, duplication, and or distribution of files is prohibited. Personnel shall not make copies of any files for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record any department audio/video files or images.

### **433.3 SUPERVISOR RESPONSIBILITY**

Supervisors will ensure that department members utilize personal recording devices in accordance with department policy.

When notified of a device malfunction, a supervisor will forward documentation and the device to the Operations Captain for repair. The supervisor will also ensure that the officer is equipped with a backup camera for temporary use. If no backup is available, the officer will be instructed to use their audio recording device.

Supervisors may have the ability to immediately resolve citizen complaints by reviewing video/audio recordings. In those circumstances, where a complaint is resolved and no further action is needed, supervisors shall add an additional category of Potential Complaint to the recording and make appropriate notes in the corresponding section of Evidence.com. This will allow command staff to capture incidents that are resolved by video/audio recordings.

### **433.4 PRIVACY, CONSENT, AND ADMONITIONS**

Recording devices shall not be used to record non-work related activity and should not be activated in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms. Conversations with co-workers or those related to personnel matters shall not be recorded without knowledge and consent, except as authorized by law or the Chief of Police.

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Officers should be aware of certain circumstances where recording may not be appropriate such as:

- 1) hospital rooms where privacy of patients should be considered.
- 2) anytime a person's private health information is being discussed.
- 3) ambulance responses when victims are not involved in any criminal activity.
- 4) When the use of a recording device causes a victim of a crime undue emotional stress such as a rape victim.

Officers are not required to advise or obtain consent from a private person when:

- In a public place; or
- In a location where there is an expectation of privacy (e.g., inside a building or dwelling) but the officer is legally present

Department members are strongly encouraged to advise private persons they are being recorded if the advisement may gain compliance, assist in the investigation, and it does not interfere with the investigation or officer safety.

Private Residences: Officers are required to admonish and obtain consent to record with the recording device from the person being recorded and/or searched when searching the person's dwelling and the legal grounds for the contact or search are based solely on consent.

#### **433.4.1 SUPERVISOR RESPONSIBILITIES**

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force requiring hospitalization, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

#### **433.5 REVIEW OF THE PERSONAL RECORDING DEVICES**

All access to audio/video files in Evidence.com is logged with date/time, and name of person viewing files. Access is permitted on a right to know, need to know basis. Employees authorized under this policy may review files according to the provisions of this policy. Once uploaded to Evidence.com, personnel may view their own audio/video data from a department authorized computer, if allowed by this policy..

Recordings may be reviewed in any of the following situations:

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By any department member viewing their individually assigned recording device recordings for the purposes of completing a criminal investigation and preparing official reports or prior to courtroom testimony, except as noted in section 450.5.1.

By a supervisor or investigator who is participating in an official investigation such as a criminal investigation, personnel complaint, or administrative inquiry.

By an FTO to provide immediate training to a recruit and to assist in the completion of Daily Observation Reports.

If an involved department member objects to the showing of a recording for training purposes, his/her objection will be submitted to the Operations Captain, in writing, to determine if the training value outweighs the department member's objection.

Department members desiring to view or listen to any recording device recording, not their own, shall submit a request in writing to the Operations Captain for approval prior to viewing the recording.

In no event shall any recording be used or shown for the purpose of ridicule or embarrassing any department employee or member of the public.

#### 433.5.1 CRITICAL INCIDENTS

Following any critical incident as identified in Policy 358.3, involved personnel shall not view their video or listen to the audio on any device or computer without authorization of the Chief of Police or their designee.

When safe and practical, the on scene supervisor shall retrieve the recording devices from all involved personnel at the scene. The supervisor will be responsible for assuring the recordings are uploaded into Evidence.com.

Following a critical incident, a video may be viewed or audio may be listened to without prior authorization only when exigent circumstances occur, such as an officer being injured and/or there is an immediate need to obtain suspect information or other pertinent information from the recording that may be time sensitive.

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In these cases, the initial interview of an Involved Officer should occur before the officer has reviewed any audio or video recording of the incident. An involved officer will have the opportunity to review recordings after an initial statement has been taken.

#### **433.5.2 EXPLOSIVE DEVICE**

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

#### **433.5.3 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

#### **433.6 RELEASE OF RECORDINGS**

No stored image may be copied and/or released without the authorization of the Chief of Police or their designee.

All audio/video recordings shall be treated as other forms of evidence subject to discovery and disclosure in accordance with the law. Due to privacy concerns associated with a video recording, any video recording disclosed to the media may be edited to preserve the privacy of individuals unrelated to the case who have a reasonable expectation of privacy.

Copies and release of recorded data shall only occur for the following reasons:

For use in court

For authorized training purposes

For compliance with a public records act request, if permitted, and in accordance with the Release of Records and Information Policy

For other legitimate department business purposes as authorized by the Chief of Police/Watch Commander

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### **433.7 RETENTION OF RECORDINGS**

All recording device recordings shall be downloaded into the appropriate category listed in Evidence.com. Employees will make every effort to identify the most appropriate category for download. Retention periods are determined by categorization and established by the Chief of Police in accordance with state and federal mandates. However, in no case will video not having evidentiary or administrative value be retained longer than a year.

In the event of an accidental activation of a recording device where the resulting recording contains personal and/or private conversations of a department member, which otherwise has no valid official purpose, and which has no apparent evidentiary or investigatory value, the department member may request the deletion of the accidentally recorded recording device file.

The department member shall submit a written request to the Chief of Police or his/her designee.

Once the Chief of Police or the designee determines the recording contains personal and/or private conversations of a department member, which otherwise has no valid official purpose, and which has no evidentiary or investigatory value, it may be deleted after seven days.

#### **433.7.1 RETENTION REQUIREMENTS**

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

### **433.8 COORDINATOR**

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.